IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
SECOND APPEAL NO.1523 OF 2005

Pandurang Mukund Shelar ...Appellant
vs.
Shrikrishna Sitaram Joshi & Anr. ...Respondents

Mr.S.B.Shetye for the Appellant
Mr.R.V.Govilkar for the Respondents

CORAM: A.S.OKA, J.
DATED: AUGUST 7, 2006.

P.C.:

1. Heard the learned Counsel for the Appellant. The Appellant is the original Defendant. The decree for perpetual injunction passed by the Trial Court has been confirmed in Appeal.

2. The learned Counsel for the Appellant submitted that the Respondents-Plaintiffs did not enter the witness box and the finding regarding possession in favour of the Respondents is based only on the entries in the revenue record. He submitted that the Appellate Court has thrown out the Appeal only on the ground that the Appellant has failed to establish his plea of oral purchase and the merits of the case regarding possession was not considered.

3. I have considered the submissions. The Respondents filed a suit for injunction claiming to be the owners of the suit property since their forefathers and claiming to be in actual

physical possession of the suit property. The defence of the Appellant was that his grandfather purchased the suit property from the father of the original Plaintiffs and the purchase was an oral purchase. The case of the oral purchase made out by the Appellant has been discarded by the courts below. Once the case of oral purchase made out by the Appellant is discarded, it is obvious that the Respondents continued to be the exclusive owners of the suit property.

4. On the basis of certified copies of 7/12 extracts which were admitted in evidence, the learned Trial Judge held that the Respondents-Plaintiffs are in possession. The said finding appears to have been recorded in the light of the entries in the revenue record.

5. The Appellate Court has examined the case made out by the Appellant as regards oral purchase. The Appellate Court has expressed general agreement with the conclusions drawn by the Trial Court in favour of the Respondents.

6. After having failed to establish the plea of oral purchase, the Appellant cannot find fault with the finding recorded in favour of the Respondents on the basis of consistent revenue record. No substantial question of law arises. Appeal is dismissed with no order as to costs.

Judge.